Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Inquiry into Disbursement Process for the Universal Service Fund Low Income Program	WC Docket Nos. 11-42 and 03-109 DA 11-1593

REPLY COMMENTS OF THE MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Commonwealth of Massachusetts
Department of Telecommunications and Cable

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The Massachusetts Department of Telecommunications and Cable (MDTC)[1] respectfully submits these reply comments in response to the initial comments filed November 18, 2011, and the Public Notice (Notice) issued by the Federal Communications Commission's (FCC or Commission) Wireline Competition Bureau (Bureau) in the above proceeding.[2] The Bureau seeks comment on a Universal Service Administrative Company (USAC) proposal to change the administrative process for disbursing federal Universal Service Fund (USF) low-income support to eligible telecommunications carriers (ETCs).[3]

Important from the Massachusetts perspective is the impact that the USAC proposal will have on improving the accuracy of the USF disbursements.[4] Massachusetts is a "net-payor" state, meaning Massachusetts consumers pay more through their phone bills into the USF

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1 The MDTC is the exclusive state regulator of telecommunications and cable services within the Commonwealth of Massachusetts. MASS. GEN. LAWS ch. 25C, § 1.

2 *Inquiry into Disbursement Process for the Universal Service Low Income Program*, WC Docket Nos. 11-42 and 03-109, DA 11-1593 (rel. Sept. 23, 2011) (Notice).

3 Notice at ¶ 1 and Appendix A. USAC's proposal stems from a directive by the Commission's Office of the Managing Director (OMD) for USAC to submit a proposal based on actual support disbursements. *Id.*

4 Notice at ¶ 5.

program than they receive in benefits.[5] Consequently, the MDTC has a deep interest in ensuring that USF programs are fiscally responsible and that funds are spent prudently. Furthermore, the MDTC seeks to protect its over 220,000 low-income consumers who are eligible to subscribe to USF Lifeline service and who would be vulnerable to service interruptions if any transitions in the carrier disbursement process are not achieved in a coordinated manner.

Currently, six carriers operating in the Commonwealth of Massachusetts offer low-income service to Massachusetts consumers through the federal USF Lifeline program -- Verizon Massachusetts, Richmond Telephone Company (Cornerstone Telephone), Granby Telephone d/b/a OTT Communications, Taconic Telephone d/b/a Fairpoint, TracFone Wireless, and Virgin Mobile. From January 1 to August 31, 2011, Massachusetts carriers received over $18.4 million in USF low income support, with TracFone receiving roughly $12.8 million and Verizon Massachusetts receiving $5.6 million.[6] The six carriers may be affected by changes in the existing low-income disbursement process, so the MDTC has an interest in ensuring that any adjustments to the status quo are reasonably necessary. These perspectives prompt the MDTC to weigh in on the USAC proposals.

I. REIMBURSEMENT BASED ON ACTUAL SUPPORT PAYMENTS CONFORMS TO EXISTING PROTOCOLS.

A key component of the USAC proposal seeks to reimburse low-income support to ETCs based on claims for actual support rather than the current method using projected and subsequent "true-up" claims for support.[7] USAC proposes this revision under direction from the FCC's

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[5] *In the Matter of Further Inquiry Into Certain Issues in the Universal Service – Intercarrier Compensation Transformation Proceeding*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51; DA No. 11-1348, Massachusetts Department of Telecommunications and Cable Comments, p. 3 (filed Aug. 24, 2011).

[6] The MDTC designated Virgin Mobile as an ETC for Lifeline support on September 9, 2011, so the above figures do not reflect Virgin Mobile's support level.

[7] Notice at ¶ 1 and Appendix A.

Office of Managing Director (OMD).[8] USAC recommends that the FCC transition the support disbursement payments from projected support to actual support over a period of months, intended to minimize financial burden on the carriers.[9]

USAC indicates that it already issues support based on actual support claims in limited circumstances and specifies that "[t]he most substantial benefit of paying … support based on actual support claims is the elimination of risk to the program if a carrier ceases business operations or drastically reduces its support claims."[10] In the first instance, USAC "stop[s] paying a carrier based on projections if the company has filed for bankruptcy protection or is the subject of a dispute, review or investigation that could result in the carrier discontinuing the provision of Lifeline service."[11] In the second, ETCs that enter a new study area receive disbursements based on actual support for the first three months after they enter that study area.[12] Under the existing disbursement calculation process, it takes three months before USAC generates projected support amounts for the company.[13]

The MDTC joins other commenters in supporting this component of USAC's proposal because using actual support improves accounting accuracy and therefore is a more fiscally responsible approach to USF disbursements for the low-income program.[14] USAC notes in its proposal that the difference between actual payments and projected payments for March 2011 actual support claims and the May 2011 disbursements differed by more than $2 million.[15] The

[8] Appendix A at ¶ 1.

[9] *Id.* at ¶ 13.

[10] *Id*. at ¶ 16.

[11] *Id.* at ¶ 5.

[12] *Id.* at n.4.

[13] *Id.*

[14] *See, e.g.,* Michigan Public Service Commission Comments, p. 3; South Carolina Office of Regulatory Staff Comments, p. 2; CenturyLink Comments, p. 1. This reply comment does not address every component of the USAC proposal or every issue raised in the initial comment round. MDTC silence on an issue raised in this docket should not be construed as assent or objection to the issue.

[15] Appendix A, p. 13.

April-June 2011 claim/disbursement difference was nearly $1 million, and the May-July 2011 claim/disbursement difference was over $500,000.[16] These are substantial sums for both industry and consumers, justifying imposition of measures to improve the accuracy of disbursements under the low-income program. Moreover, a transition period will ease any financial impacts on the affected carriers so as to avoid service interruptions for Massachusetts consumers. Reimbursing ETCs based on actual support payments would conform to existing administrative processes already in place intended to eliminate risk to the program.[17] Other commenters agree that such an approach is generally reasonable.[18] Consequently, the Commission should adopt the USAC proposal to use actual support claims.

II. SEVERAL OTHER USAC PROPOSAL COMPONENTS WILL ALSO FOSTER BETTER ACCOUNTING PRACTICES AND PREDICTABILITY.

Other components of the USAC proposal address when ETCs can file support claims, when USAC halts support disbursements to an ETC that has failed to file claims in a timely manner, and how long ETCs can wait before revising their claims. Currently, ETCs generally file their support claims on a monthly or quarterly basis, and USAC does not halt support disbursements until an ETC fails to file support claims for six months.[19] Furthermore, USAC makes monthly disbursements regardless of whether the ETCs file their support claims monthly

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16 *Id.*

17 *Id*. at ¶ 5 and n.4.

18 *See, e.g.*, Michigan Public Service Commission Comments, p. 3 ("agrees with the concept of disbursing [USF] low income support to ETCs based upon claims for reimbursement of actual support payments made, instead of projected claims for support"); South Carolina Office of Regulatory Staff Comments, p. at 2 ("a new reimbursement process based on verified claims will improve the accuracy of the low income program payment-processing and will also reduce the adjustments, or true-ups, between USAC and each ETC … ORS finds it reasonable for ETCs and reasonable to implement"); CenturyLink Comments, p. 1 ("generally supports the Bureau's proposed changes to distribute program support for those services based on actual support claims"); and Verizon and Verizon Wireless Comments, p. 1 ("USAC's proposal is generally sound. The Bureau should adopt it." and "The current process … is needlessly complicated").

19 Notice at ¶¶ 3-4.

or quarterly. ETCs are permitted to file upward revisions to their claims within up to *fifteen months* of having made their original support claims.[20]

Under USAC's proposal, ETCs would retain the flexibility to file their support claims on a quarterly or monthly basis, but disbursements would be tied to the filing schedule adopted by the ETCs – i.e., monthly filers would receive monthly disbursements and quarterly filers would receive quarterly disbursements.[21] USAC would also implement a monthly due date for carriers to submit their filings.[22] If a carrier submits its filing after the monthly deadline, then it would not receive support on the following disbursement date. Instead, the carrier would be required to wait until the next disbursement date.[23] Finally, USAC would reduce the fifteen month filing window for new support and upward revisions to six months.[24] If, under the proposal, the entity discovered an accounting error and claimed additional support after the six month period, then the support claim would be denied as untimely.[25]

Comments on the components of the USAC proposal are limited regarding the monthly/quarterly disbursement proposal, and most commenters support a single monthly due date with recommendations as to when in the month USAC should require the filing.[26] Much of the discussion on the initial round also focused on the proposed reduction from 15 months to 6 months for ETCs to revise upward (to increase) their support claims. Several industry commenters oppose reduction of the existing filing window timeframe for new support and

[20] *Id.* at ¶¶ 3, 9.

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *See, e.g.,* CenturyLink Comments, p. 3 ("A monthly filing deadline for submitting support claims should be later in the month … [and] CenturyLink has no objection to the proposal to allow quarterly reimbursements based on quarterly claim submissions"); Sprint Comments, p. 2 (recommending that "the quarterly reporting option be eliminated") ; USTelecom Comments, pp. 3-4 (recommending that the due date "be the 20th of the month").

upward revisions, while Sprint did not oppose shortening the window to 6 months.[27] Shortening the upward revision window to 6 months will encourage filers to scrutinize their support requests more carefully than in the past. This is a more stringent tracking measure for the industry, so USAC has included a request for a transition period.[28] The proposed 6-month period, coupled with a transition period, should achieve the Commission's goals of minimizing waste, fraud and abuse in the low income program while permitting filers sufficient time to adjust to the new window. The MDTC agrees with these portions of the USAC proposal, and the FCC should adopt these recommendations.

III. THE BUREAU AND OMD SHOULD COORDINATE CHANGES WITH ANTICIPATED AMENDMENTS TO THE LOW-INCOME PROGRAM.

The Commission has a pending rulemaking to reform of the Lifeline and Link Up program.[29] Several of the reform proposals would involve possible amendments to FCC Form 497, including those issues addressing duplicate claims[30] and pro rata reporting requirements,[31] elimination of reimbursement for toll limitation service,[32] and changes involving Link Up support.[33] The MDTC expects that the Commission will institute timelines to allow for transition of any changes adopted, and Commission staff has indicated that an order in this proceeding will be issued by the end of the year. USAC's current proposals involve changes to the current FCC Form 497 filing deadlines and provides for a transition period.[34] To the extent

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[27] Sprint Comments, p. 3.

[28] Appendix A at ¶ 13.

[29] *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking, FCC 11-32 (Mar. 4, 2011) (*Lifeline/Link Up NPRM*).

[30] *Id.* at ¶¶ 56-62.

[31] *Id.* at ¶¶ 65-67. In previous comments filed with the Commission, the MDTC strongly endorsed USAC's interpretation of mandatory pro rata reporting on Line 9 of the FCC Form 497. *See Lifeline and Link-Up*, WC Docket No. 03-109, MDTC Comments (filed Apr. 9, 2010).

[32] *Lifeline/Link Up NPRM* at ¶¶ 68-70.

[33] *Id.* at ¶¶ 71-79.

[34] Notice at ¶¶ 7-12.

that the Commission implements reforms affecting FCC Form 497 in the near term, the MDTC urges the Bureau and OMD to coordinate adoption of USAC's proposals with the anticipated amendments and timelines to be implemented in the low-income program. Further, changes to the program may necessitate changes to USAC's proposals.

IV. CONCLUSION.

The MDTC encourages the Bureau and OMD to adopt a low-income disbursement process based on actual support. Such an approach already conforms to existing protocols and would foster better accounting practices and regulatory predictability. The Commission should accept USAC's proposal to reduce the low-income revision window to six months. Finally, the Bureau and OMD should coordinate any reporting changes to those that may arise in the Commission's anticipated low-income order.

Respectfully submitted,

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